

## Addendum 2

### **Jury Selection Process in Criminal Cases** **Assigned to Judge Walton**

(1.) Proposed voir dire questions must be submitted to the Court at least **seven** days before the scheduled trial date in writing and on a 3.5 inch, high density disk, formatted for IBM compatible computers, in Microsoft Word or WordPerfect. The parties may also send a copy of the proposed voir dire questions by email to [auntalene\\_queen@dcd.uscourts.gov](mailto:auntalene_queen@dcd.uscourts.gov). Failure to comply with this requirement will be deemed a waiver and/or sanctions will be imposed if the Court decides to entertain untimely voir dire requests.

(2.) The determination of how many peremptory challenges each party will have will be determined at the final pretrial conference based on Fed. R. Crim. P. 24(b) and (c).

(3.) When the trial is ready to proceed, the court will discuss with counsel the proposed voir dire questions and decide what questions will be asked.

(4.) An appropriate number of potential jurors will then be obtained from the Jury Office when the selection process is ready to proceed.

(5.) When the jury arrives from the Jury Office, counsel will be provided with the written list of the venire.

(6.) The jurors will be seated in the courtroom by the courtroom deputy clerk in the order in which they appear on the jury list. The seating arrangement will start with the first juror being placed in the seat next to the wall on the first row of seats located on the right side of the courtroom as viewed from the bench looking toward the rear of the courtroom.

Subsequent jurors will be seated in sequential order as listed on the jury list on the first row

until all seats are occupied. Thereafter, jurors will be seated in the same manner on additional rows until all jurors are seated. The same seating arrangement will be employed on the left side of the courtroom if that space is needed to seat the entire venire.

(7.) Once all of the jurors are seated, they will be placed under oath and the judge will make a statement about jury service and its importance. The judge will then ask the jurors collectively the voir dire questions the court agreed to ask the venire. After each question, those jurors who have affirmative answers will be required to stand and indicate only their individual juror numbers so that the need to obtain further responses from them to the various questions to which they need to respond can be noted.

(8.) After all of the voir dire questions have been asked and the numbers of the jurors who have affirmative responses have been recorded, the entire venire will be taken to another courtroom with instructions that they should not discuss the case or the voir dire questions until they are individually returned to the courtroom for further questions. The jurors who had an affirmative response will then be returned to the courtroom for individual questioning by the judge and counsel. In addition, jurors who failed to indicate that they had responses to any of the questions that were asked will be returned individually to the courtroom for individual questioning because in this judge's experience jurors do not always respond when they should in a group setting, but do indicate that they have responses when they are questioned individually.<sup>1</sup>

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<sup>1</sup>In the event another courtroom is not available to house the venire when the individual questioning is conducted, the individual inquiries will be conducted in the Court's jury room.

(9.) Strikes for cause will be entertained immediately after the individual questioning of each juror.

(10.) Depending upon the number of alternate jurors the court decides to empanel, the 12 non-alternate jurors and the alternates will be placed in the jury box in designated seats. Specific seats will have been assigned for the alternates but their identities as alternate seats will only be made known to counsel and their clients. Concealment of the alternate jurors' identities will be maintained until the jury is ready to commence deliberations.

(11.) During the six rounds of peremptory strikes on the non-alternate jurors, the government on each round will exercise its strikes first, followed by the defendant who on rounds one through four will exercise two strikes, and on the last two rounds one strike. The parties are permitted to strike jurors in the venire who were not placed in the jury box; however, strikes on the yet to be seated jurors can only be exercised against those potential jurors who actually have the potential of being empaneled if both sides were to exercise all of their strikes. A pass by either party counts as a strike. If the government fails to exercise a strike on a round and the defendant also fails to exercise a strike on that same round, the peremptory striking process on the non-alternates will be deemed completed. In codefendant cases an alternative process concerning passes will be devised based upon the number of codefendants.

(12.) In the event there are multiple defendants in a case, when practicable, each defendant will be provided with an equal number of peremptory strikes. The order in which strikes will be exercised on the non-alternate jurors will start with the government followed by the defendants exercising one strike each during the first six rounds (unless the defense

is awarded more than ten challenges) in the order previously designated either by agreement of the defendants or as designated by the court if an agreement cannot be reached as to which defendant will proceed first. On the final four rounds of peremptory strikes on the non-alternate jurors, the government will proceed first followed by one of the defendants on each of the last four rounds exercising their strikes in the order as designated above.

(13.) In a single defendant case, peremptory strikes on the alternate juror(s) will be exercised by the government proceeding first on each round, followed by the defendant. In codefendant cases, when practical, each defendant will be given an equal number of peremptory strikes for the alternate jurors.

(14.) Jurors who were stricken will not be excused from the courtroom until the entire selection process has been completed, including the resolution of any Batson<sup>2</sup> challenges.

(15.) In the event a Batson challenge is raised and found to be meritorious, counsel are forewarned that one remedy the court may employ is to impanel the improperly stricken juror on the jury and preclude the party who improperly exercised the strike from excluding that juror. An array of other remedies are available to the court, including the imposition of monetary sanctions, to address Batson violations. Counsel should therefore be mindful of their obligation not to exercise peremptory challenges that seek to exclude jurors for racial or gender reasons.

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<sup>2</sup> Batson v. Kentucky, 476 U.S. 79 (1986).